

Continuation of Application for Search Warrant

I, Special Agent Christopher Spivey, being sworn, depose and state as follows:

AGENT BACKGROUND

1. I am a Special Agent with the United States Fish and Wildlife Service (USFWS), Office of Law Enforcement (OLE), and have been since 2016. As a Special Agent with USFWS-OLE, I have gained experience and been trained in the investigation of wildlife criminal violations which include but are not limited to, the Endangered Species Act and the Lacey Act. Through training and experience, I am familiar with the identification of wildlife and Federal laws found in Title 16 of the United States Code.

2. Prior to working as a Special Agent, I was employed by the USFWS as a uniformed Federal Wildlife Officer from 2011 to 2016 and enforced Federal wildlife laws and regulations on multiple Refuges across the country. Some of the laws enforced included the Migratory Bird Treaty Act, Lacey Act, Endangered Species Act, and the Bald and Golden Eagle Protection Act.

3. Some of the training I have completed includes, but is not limited to: a Bachelor's Degree in Wildlife Biology (2009) - Murray State University; Land Management Police Academy (2011) - Federal Law Enforcement Training Center (FLETC); Refuge Officer Basic School (2011) - National Conservation Training Center; Department of the Interior Investigator Training Program (2016) - FLETC; Special Agent Basic School (2016) - FLETC.

4. During the course of my employment, I have conducted and participated in numerous complex criminal investigations pertaining to violations of federal and state wildlife laws. I have been involved in investigations concerning the taking of wildlife in violation of state, federal, and foreign wildlife statutes and the interstate transportation of that wildlife, including but not limited to, the illegal commercialization and trafficking of wildlife. I have been an affiant on other

applications for search warrants for violations of federal laws. I am currently assigned to the FWS Office of Law Enforcement Investigations Office in Franklin, Indiana.

SUMMARY OF FEDERAL WILDLIFE OFFENSES

5. The USFWS enforces several laws and regulations relating to the possession, handling, trade, and trafficking in wildlife. These include the Endangered Species Act (16 U.S.C. § 1538, *et seq.*) and the Lacey Act Amendments of 1981 (16 U.S.C. § 3371, *et seq.*).

6. Under the Endangered Species Act, the species subject to the protection of the ESA are designated through published regulations. 50 C.F.R. § 17.11 (Endangered and threatened wildlife). Title 16, United States Code, Section 1538(a)(1)(G) makes it unlawful to violate any regulation pertaining to any endangered or threatened species of fish or wildlife. The ESA's implementing regulations provide that it is unlawful to: import or export; take; possess, sell, delivery, carry, transport, or ship unlawfully taken wildlife; deliver, receive, carry transport, or ship in interstate in the course of commercial activity; and sell or offer for sale any endangered wildlife without the proper permits. 50 C.F.R. § 17.21. These prohibitions also apply to threatened wildlife. 50 C.F.R. § 17.31. Title 16, United States Code, Section 1540(b)(1) makes it a crime to violate 16 U.S.C. 1538(a)(1)(G).

7. The USFWS enforces several laws and regulations relating to the possession, handling, trade, and trafficking in wildlife. These include the Endangered Species Act (16 U.S.C. § 1538 *et seq.*) (including provisions carrying out treaty obligations of the United States under the Convention on International Trade in Endangered Species of Wild Fauna and Flora ("CITES")).

8. CITES is an international treaty that provides protection to fish, wildlife, and plant species that may become imperiled due to the demands of international markets. CITES has been signed by over 170 countries around the world. Countries that have joined CITES are known as "Parties." The United States joined CITES on January 14, 1974, and its treaty obligations entered in force on July 1, 1975.

9. The United States has implemented CITES as part of the Endangered Species Act and the regulations promulgated thereunder. See 16 U.S.C. § 1538(c)(1) (providing that it shall be “unlawful for any person subject to the jurisdiction of the United States to engage in any trade in any specimens contrary to the provisions of [CITES], or to possess any specimens traded contrary to the provisions of [CITES] and the regulations promulgated thereunder”); 50 C.F.R. Parts 14 and 23 (regulations implementing CITES).

10. Based on my training and experience I know that species protected under CITES are listed in a series of appendices (Appendices I, II and III). Appendix I includes species threatened with extinction and provides the greatest level of protection. International trade in Appendix I species for primarily commercial purposes is essentially prohibited. Appendix II includes species that, although not currently threatened with extinction, may become so without trade controls. Appendix III includes species that are protected in at least one country, where that country has asked CITES signatories to help manage trade in the species. This investigation has identified numerous species of animals involved in the illegal trafficking which are CITES listed.

11. Species listed in Appendix I of CITES can be imported into the United States only if, prior to importation, the importer possesses a valid CITES export document issued by the country of export, as well as valid corresponding CITES import documentation issued by the United States. Species listed in Appendix II of CITES may be allowed in trade; however, they are strictly regulated and monitored. In order to import any wildlife species listed in Appendix II into the United States from a foreign country, the U.S. regulations require that a valid “foreign export permit,” issued by the specimen’s country of origin, be obtained prior to importing any such wildlife into the United States. Legal importation requires declaration to and clearance from USFWS at designated ports unless otherwise authorized.

FACTS SUPPORTING THE PRESENT WARRANT REQUEST

12. On October 29, 2021 Magistrate Judge Phillip Green authorized me to search 431 N. Marshall Avenue, in Marshall, Michigan, to search for evidence that the

resident was violating federal wildlife laws. Specifically, the warrant related to an investigation that Christopher Scott Tabaka illegally possessed endangered turtles at that address. *See, In the Matter of the Search of 431 N. Marshall Avenue*, No. 1: 21-MJ-589. I also obtained a warrant from the Eastern District of Michigan to search for such evidence at a residence Tabaka maintained near Jackson, Michigan. *See In the Matter of the Search of 445 N. Railroad St., Rives Junction, Michigan*, No. 2:21-mc-51363 (E.D.Mich.)

13. I and other agents executed the Marshall warrant on November 1, 2021. While there, we documented the fact that there were approximately 30 turtles at the residence, many of them designated endangered or otherwise protected by federal law. At approximately the same time other agents executed the warrant in Jackson. They located approximately 80 to 90 such reptiles there.

14. Because of the large number of turtles involved, I did not have suitable storage facilities available to take immediate custody of the animals at the Marshall address, as they could be imperiled by prolonged exposure to cold temperatures. Tabaka was present during the search and I advised him of the problem. I told him I wished the animals to remain in his care until November 2, when I would return after arranging for a safe place to store them. Tabaka agreed to this arrangement.

15. Based upon the foregoing, I submit there is probable cause to search 431 N. Marshall Avenue and seize all protected reptiles that are on the premises.